

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE BOARD OF PEACE OFFICER STANDARDS AND TRAINING

In the Matter of the Peace Officer  
License of Francisco Rodriquez,  
Inactive License No. 6315.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
RECOMMENDATION**

The above-entitled matter came on for hearing before Administrative Law Judge Steve M. Mihalchick at 9:30 a.m. on September 10, 1999, at 100 Washington Avenue S., Suite 1700, Minneapolis, Minnesota.

Michele M. Owen, Assistant Attorney General, Suite 200, 525 Park Street, St. Paul, Minnesota 55103, appeared on behalf of the Complaint Committee ("the Committee") of the Board of Peace Officer Standards and Training ("POST" or "the Board").

The Licensee, Francisco Rodriquez, did not appear at the hearing. Licensee's address is 3305 Broadway, Lot 69, Alexandria, Minnesota 56308. No one appeared on behalf of the Licensee. The record closed in the matter at the close of the hearing on September 10, 1999.

**STATEMENT OF ISSUE**

Whether Francisco Rodriquez's conduct constitutes grounds for disciplinary action.

Based on the filings and records in this matter, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. On July 1, 1979, the Board issued Francisco Rodriquez a peace officer license. Licensee was employed by the Minnesota State Highway Patrol.
2. On June 19, 1998, Francisco Rodriquez was charged in Douglas County with two counts of harassment and stalking in violation of Minn. Stat. § 609.749, subd. 2(2) and (3).<sup>[1]</sup>
3. On August 14, 1998, the Minnesota State Highway Patrol terminated Licensee's employment. Because Licensee did not obtain employment as a police officer, his license entered "inactive" status.<sup>[2]</sup>

4. On September 22, 1998, Licensee pled guilty to one count of stalking in violation of Minn. Stat. § 609.749, subd. 2(2), a gross misdemeanor offense.<sup>[3]</sup> On November 12, 1998, the Court stayed imposition of Licensee's sentence on the condition that he serve a period of probation for two years, pay a \$1,100.00 fine, perform 100 hours of community service and complete a domestic violence course.<sup>[4]</sup>

5. On December 15, 1998, the Committee served a Complaint on Licensee. The Complaint scheduled a conference before the Committee on January 19, 1999. Licensee did not appear at the conference.

6. A Notice Of and Order for Hearing was served on Licensee on August 3, 1999. The Notice indicated that a hearing would be held on September 10, 1999 at the Office of Administrative Hearings. Licensee was informed in the Notice that failure to appear at the hearing could lead to the allegations in the Notice being taken as true. Licensee failed to appear at the hearing and failed to contact the Judge regarding the hearing.

Based on the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS OF LAW**

1. The Board of Peace Officer Standards and Training and the Administrative Law Judge have jurisdiction of this matter pursuant to Minn. Stat. §§ 214.10 and 14.50.

2. Proper notice of this matter has been given and the Board has met all necessary procedural requirements.

3. Licensee's failure to appear at the hearing in this matter and failure to contact the Administrative Law Judge constitute a default under Minn. Rule 1400.6000. Pursuant to that rule, the Judge takes the allegations in the Notice and Order for Hearing as true for the purposes of this proceeding.

4. Licensee was convicted of a gross misdemeanor violation of Minn. Stat. § 609.749, subd. 2(2) on September 22, 1998. Minn. Rule 6700.1600 C makes a conviction of that offense a violation of the standard of conduct required of licensees. Ronald Schmidt's conviction of a gross misdemeanor is a violation of the standard of conduct set by Minn. Rule 6700.1600 C.

5. By failing to attend the meeting of the Committee on April 16, 1997, Respondent failed to cooperate with an investigation of the Board, in violation of the standard of conduct identified in Minn. Rule 6700.1600 M.

6. Because the Committee did not allege a violation of Minn. Rule 6700.1600 M in its Notice of and Order for Hearing, the Board cannot base any disciplinary action on the violation of that rule item.

7. Under Minn. Stat. § 214.10, subd. 11, the Board is authorized to take disciplinary action against a licensee who has violated the standards of conduct of licensees.

Based on the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS RESPECTFULLY RECOMMENDED THAT the Board of Peace Officer Standards and Training take disciplinary action against the peace officer license of Francisco Rodriquez.

Dated: September 14, 1999.

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STEVE M. MIHALCHICK  
Administrative Law Judge

Reported: Default

### **NOTICE**

Notice is hereby given that, pursuant to Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Recommendation has been made available to the parties to the proceeding for at least ten days, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the Board. Exceptions to this Report, if any, shall be filed with Neil Melton, Executive Director of the Board, 200 Spruce Tree Center, 1600 University Avenue, St. Paul, Minnesota 55104-3825, telephone no. (651) 643-3072. Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

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<sup>[1]</sup> Exhibit A.

<sup>[2]</sup> See Minn. Rule 6700.0100, subp. 16.

<sup>[3]</sup> Exhibit B.

<sup>[4]</sup> Exhibit C.